

REMARKS

This is in full and timely response to the Office Action mailed on May 29, 2008.

Reexamination in light of the following remarks is respectfully requested.

Restriction Requirement

The Restriction Requirement of May 29, 2008 asserts an existence of the following species:

- Embodiment 1 - claims 3 and 11;
- Embodiment 2 - claims 4 and 12.

Election

The Applicant, through its representatives and attorneys, hereby provisionally elects, **WITH traverse**, the invention of the alleged Embodiment 1 - claims 3 and 11.

Traversal

For the reasons provided hereinbelow, the Restriction Requirement made within the Office Action mailed on May 29, 2008 is respectfully **traversed**.

The above-identified application is an application under 35 U.S.C. §371

The above-identified application was filed under 35 U.S.C. §371 and 37 C.F.R. §§1.494 or 1.495, being based upon international application No. PCT/JP04/04490 having an International filing date of March 30, 2004.

Accordingly, M.P.E.P. §1893.03(d) provides that the principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application.

Unity of invention, not restriction practice, is applicable in international applications and in national stage (filed under 35 U.S.C. §371) applications. However, the Restriction Requirement made by the Examiner in the Office Action of May 29, 2008 is based upon 35 U.S.C. §121 and not under the principles of unity of invention.

- Thus, the Restriction Requirement is improper at least for this reason.

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group. M.P.E.P. §1893.03(d).

However, the Restriction Requirement of May 29, 2008 fails to either (1) list the different groups of claims or (2) explain why each group lacks unity with each other group.

The Restriction Requirement contends that claims 1-2, 5-10, 13-16 are generic.

In this regard, this indication within the Restriction Requirement that claims 1-2, 5-10, 13-16 are generic is an admission that unique special technical features may be found in each of the alleged species.

- Thus, the Restriction Requirement is improper at least for this reason.

Withdrawal of this Restriction Requirement and examination of all pending claims is respectfully requested.

An early Action on the merits of this application is additionally respectfully requested.

Extensions of time

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

Fees

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Conclusion

This response is believed to be a complete response to the Office Action. Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance.

Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: June 27, 2008

Respectfully submitted,

By  40,290

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